

Ventnor City Zoning Board

Minutes

Wednesday August 19, 2009 – 6:30 PM

1. Call to Order: 6:32 PM
2. Flag Salute
3. Roll Call

Present

Dan Smith
Mike Weissen
Greg Maiuro
Pete Weiss
Mike Advena
Jay Cooke
John Matthews, Esq.
Dick Carter, Engineer

Absent

Jim Reynolds
Lorraine Sallata
Ken Cutugno
Michael Conte
Clyde Yoste

4. Adoption of Minutes of July 15, 2009 meeting
Motion: Mike Weissen
Second: Jay Cooke
Approval: All in favor
5. Adoption of the Following Resolutions
 - a. Z-19: Lillie & Natale Carabello III
24 South Vassar Square
"C" Variance for Rear Deck
 - b. Motion made by Mike Weissen, seconded by Dan Smith, All in favor

6. Board Hearing

Complaint # SC2009-011028

State of NJ v. Shah S. Ali

Represented by Chris Baylinson

Paul and Carol Kolojeski

5404 Ventnor Avenue

Case sent down from Court by Ventnor Judge Mary Siracusa for Zoning Board to render a decision on the impact of the fence.

Paul Kolojeski alleges fence installed by Mr. Ali has created an adverse impact on his property. The 6' vinyl fence installed along the driveway has rendered his driveway unusable.

Mr. Baylinson sworn in.

- Reads Provision 102-118.5 which describes Fences and walls that create adverse impact on adjoining properties.
- Shows 6 photos to members indicating inability to use drive because of fence
- Contends the following:
 - Fence creates Health and safety concerns
 - Language of Ordinance caused Judge to defer to Zoning Board
 - No Building Permit issued for fence
 - Unsure if it follows criteria for fence
 - Footings for Fence violate property lines

Mr. Kolojeski Sworn in:

- Shows 16 additional photos
 - Wife on drivers side unable to open door
 - Driveway has been for some 85 years and until October-November 2008, there have been no issues.
 - Photos show footings of each post for encroachment
- Refers to City Engineer letter for issues
 - Dick Carter clarifies paraphrasing of letter
- Reads 2 page letter of own
 - Sites numerous examples of Public Good v. Adverse Impact

John Matthews questions:

- When Aware of Fence: October-November 2008
- Did you come to Zoning Board on this issue: No
- At anytime did you come to Zoning Board on this: No
- Did you go to Court for this section of the Ordinance: Yes

Greg Maiuro asks: When you open door, do you go onto other property to exit: Yes, but that is a separate issue

Dick Carter Questions:

- On photos 24, 21, 20, there is a bump out from the house as a bay window, what is the distance from the bay window to the front or rear of the property: not Measured

- Do you know the setback: no
- Was any concrete removed on your property to install the fence: No
- Do you have any photos before or after the bay window: No
- How old is the fence in rear of property: 10-12 years

John Matthews

- Prior to the fence in 208, how did you exit your car: On the driver's side, possibly onto the neighbors property

Dick Carter Questions:

- Notes and questions number of bedrooms; 4 noted, which should have 2 parking spaces. Can you adequately have 2 cars in the drive: No, only 1
- Can you park past the bay window: Cannot get out of car
 - Also a gate at end of drive that cannot go beyond
- Asked if survey was factual; answer yes, survey shows 10' wide drive with 20' in front of bay window. Is 10' enough: no
- Represented a hardship in the photos, but survey shows 10' driveway, 20' from bay to front of property and 60'-70' from bay to rear of property.

Public Discussion:

Mr. Shah S. Ali sworn in

- Submitted application for permit January 23, 2009
- Posts at most 2 ½" onto property line
- There is a Basement door within 24" of fence, so fence cannot be moved
- Mike Advena asked for a copy of survey – did not have one
- Baylinson Questions whether fence was up before application: Not before
- Dan Smith: Fence up before application or permit: No
- Mike Advena: When applied for: 1/22/09

Mr. Baylinson:

- Shows letter to Code Enforcement dealing with Fence
 - Dated before application
- Should Adverse impact apply
- Asks Building Dept. to check for Permits
- If fence stays, does it comply with ordinance and permits in place
- If there is any encroachment, if there a violation from footings

Mike Advena:

- Concrete behind fence – to the garden and beyond
- No other updated survey – none
- Documentation showing any encroachment – none
- Width of gate at end of drive – 10' minus posts

Jack Matthews:

- Unusual matter referred to Board from Court dated April 28, 2009 referring to Board for advisement
- Technically application section 70 of land use code read into meeting
- Owner did not submit an application'
- Does 102-118.5 apply in this case
- Constructed 6' fence is in accordance
- Unsure of what permit states
- Does the adverse effect provision prohibit the fence

Dick Carter:

- Submits his review – does not dispute Height and other requirements of fence
- Permit issue does not make fence illegal
- Decision is based on ordinance and section 70.B of code
- Fence was built properly – so does it make it an adverse impact
- All setbacks are in accordance
- Would like an updated survey with all current information

Motion in affirmative that fence was constructed by City standards – adverse impact does not apply – All stipulations by Dick Carter to apply: Jay Cooke

Second: Dan Smith

Votes:

- Dan Smith: Yea
 - Based on ordinance and circumstance fence ok – permit issue outside this case
- Jay Cooke: Yea
 - Adverse impact is aimed to apply in the negative – no variance was requested – not right to grant use to another’s property – plenty of parking before and after bay window – Gate is large enough to accommodate vehicles – 10’ driveway
- Mike Advena: Yea
 - No adverse impact presented
- Pete Weiss: Yea
 - No adverse impact presented
- Greg Maiuro: Yea
 - 10’ driveway in place

Motion carries 5 in favor, 0 opposed

7. Applicant:

Dani-Jo Properties, LLC
6503-6513 Ventnor Ave.
Block 112, Lot 2.01
Requesting a Minor Site Plan “C” Variance for side yard

Represented by Callaghan, Thompson & Thompson – Brian Callaghan

Brian Callaghan – Vince & Emilio Cannucio Sworn in
History:

- Located next to Jo-Jo Restaurant
- Fire Damage to property 6 years ago
- Purchased 1 ½ years ago
- Constraint to have a new 2 story commercial property
- Arthur Ponzio - Engineer and Gary Bednick – Architect
- Exhibits
 - A1 – Variance plan
 - A2 – Aerial Photo
 - A3 – Color rendering

- A4 – Elevations

Arthur Ponzio sworn in:

- Walked thru plan, location, and area
 - Is a visible site in the Cities C section, right next to Jo-Jo's, has commercial property all around, and is begging to be developed
- Frontage of property will have 0 foot setback as all others do. That is 0' frontage to front façade, but arcade effect will give some 6' setback to doors.
- Right side is to have a 0' setback. Butt up against existing Jo-Jo building for look, safety, and cleanliness.
- Rear requires a 3' setback, asking for 10'
- West side requires 4' asking for 6'7" for less impact on adjoining property.
- Overall requirement of 3000 Sq ft proposed 8000 sq ft
 - Asking for relief of 60% new building lot coverage
 - Building will be at 82% with concrete 100%

Discussion with Dick Carter and Brian Callaghan

- Recommend the following Variances: Side Yard, Lot Coverage, Rear yard, Signage, and parking. Recommend a drainage system as well as elevation plans for water runoff.
- Brian discussed parking, and agreed with variance as parking on site would take away from building. Signage was to have a 2'x14' block above each unit on the facade. Sign lettering could be met through any ordinance requirements

Lighting discussed:

- Will be under arcade area
- Will be in rear of each area
- Will be on front façade
- There will be no additional public lighting. Proposed lighting will handle all needs

Will replace all front concrete

Trash:

- No dumpsters placed in rear
- If a restaurant goes in, trash will be housed inside

Landscaping

- Proposed no trees – if want can put in
- Want people to be able to see area and not be obstructed
- Lack of trees will not hinder parking
- Could put planters in if needed.
 - Dick Carter suggests City Beautification Committee decide

Dick Carter Discussion:

Trash plans should be approved by City Engineer and Administration

Signage: Bypass window signing to add to the faced signing – ID signing on windows OK

Lighting plans need to show isometrics

Gary Mednick discusses Architecture:

- Flexible Building – use will be commercial
- Use second floor for commercial if need to
- Inside is liquid and could house up to 5 units
- Right now there are no tenants in place

- Lighting
 - Light fixtures on building to light street
 - Remainder of arcade area to have lights to light underside
- Discussion with Dick Carter:
 - Kind of signs – channel type
 - Reserve right to review signage – no issue with admin approval
 - Handicap accessibility – 2nd floor will be dependent on use- no elevator in place now.
 - Vestibule to be used if 2nd floor is not part of 1st floor unit.
 - No restaurant on 2nd floor
 - Fire suppression used as needed
 - Building to be kept as one lot and not sub-divided – this was intent of sale of property. Should be a condition of the resolution
- Member questions:
 - Mike Advena: Brian Callaghan
 - Hardship of 4' variance
 - 2 blank walls, a police and safety issue & trash collector
 - How is trash serviced
 - To side and then front or to side by Jo-Jo's
 - Possibility of different tenants on both floors
 - Jay Cooke
 - In case with multiple uses, what is ordinance
 - Dick Carter: Sold to by City for Commercial use – not sure if can constrict use
 - Trash enforcement – issues in past – trash mgmt plan as part of approval
 - Planned times and locations
 - Greg Maiuro:
 - Back of building fence: size and look
 - Will have wall and continue with 6' wall
 - Public Discussion:
 - Bert Sabo: Fire Chief
 - Corner rear fence open or closed
 - Have open gate

Motion to approve: Jay Cooke

Second: Mike Advena

Votes:

- Dan Smith: Yea
 - Amount of controls in place and great plan
- Jay Cooke: Yea
 - Land use fulfilled by purchase
 - Parking, signing, lot coverage, side yard all make sense with stipulations
 - Positives outweigh negatives
- Mike Weissan: Yea
 - City needs this – great plan
- Mike Advena: yea

- Unsure going in with trash and side yard – beautiful building – trees would be asset
- Pete Weiss: Yea
 - Good with Variances discussed
- Greg Maiuro: Yea
 - Terrific plan

6 approve -- 0 opposed – Motions carries

Applicant:

Diane Richards
 130 Richards Ave
 Block 117 Lot 9
 Requests “C” Variance for Fence – 6’ High

Applicant not in attendance

Motion to move to next applicant

Applicant did not have proper notice

Must comply with all application needs to be heard at next meeting

Applicant:

Tiny House LLC
 15 South Dorset Ave
 Block 61, Lot 3
 Requests “C” variance for height

Represented by Chris Baylinson

- Unit is in an R-1 Zone
- Asking for a Variance to the City Ordinance for height because of hardship. Ordinance states elevation start at 12’. Unit already at 12’. Asking to start at 14’-5”, or 10% of overall height. This would be the same with the pool house in the rear.
 - No elevation plan given as asked by Jay Cooke

Todd Miller – Licensed Architect Sworn in

- Tiny Houses LLC owner of property
- Existing unit is single story house
- Lot is not flat ranging from 10’-12’ over sea level (most areas are 11’-11-6”)
- Sited home will occupy same area as existing home
- Unit is not in flood zone
- Grade of property is unique because of the elevation of the property.
- Positive aspects of new unit
 - 3 stories allows for a bigger unit on a smaller footprint
 - Well in excess of front and side yard setbacks
 - Style of house is Traditional Southern Colonial. The area has a host of traditional styles.
 - Asking for elevation because a crawl space is needed for quality of construction.

- Pool House – accessory building – code states 10’ elevation – this is to start at 11’-5” – would need variance for that.

Board Questions:

- Jay Cooke:
 - Parking in front – is it allowed
 - Dick carter: Has to go before Commission for approval
 - We can recommend – not objectionable with certain conditions
 - Provisions for Air Conditioning sound issues on side of house
 - No storage in plan
 - Pool house is to second as storage space
 - No accessory building in plan
 - If need could apply for variance at a later date.

Public Discussion: None

Motion to approve: Height variance for home and pool house

Recommend to Commission for Circular Driveway

Motion by: Mike Weissen

Second: Mike Advena

Votes:

- Dan Smith: Yea
 - Positive, well documented, asset to Dorset Ave.
- Jay Cooke: Yea
 - Reservation to circular driveway – understand functionality – look to max out plan – look at St. Leonard’s Tract to see how others look
- Mike Weissen: Yea
 - Beautiful Plan
- Mike Advena: Yea
 - Unfortunately, do not have control over the elevation of the lot
- Pete Weiss: Yea
- Greg Maiuro: Yea
 - Parking issue a concern

Motion passes with 6 in favor, none opposed

Applicant:

Stephanie & Carmen Carfagno

5300 Edgewater Ave.

Block 150, Lot 23

Requests a “C” variance for Project Narrative

Represented by Nicholas Talvakia

Nicholas Talvakia sworn in:

- In 2006 property received a variance for work to be done
- Been in litigation with NJ DEP since for issues
 - Have reached settlement to get permit for work

Arthur Ponzio sworn in – NJ Licensed Planner

- Unit is at intersection of Surrey Ave. and Edgewater Ave.

- Cut back over deck structure
 - Current deck is fiberglass – new to be slatted deck to allow light and water flow
- Renovating building
 - Require a 4' side setback – no neighbors on easterly side – code is 10'
- Exhibits A1-A4 – show Aerial View, Design View, and 2 elevation views
- Building itself is clear of 10' setback, but need of stairs to 2nd level encroaches
- There are no neighbors on this side, so there is no adverse effect.

Dick Carter: This is a modification to an existing Non-Conforming Property
 Whatever is regulated by the State will be completed

Member Discussion:

Jay Cooke:

- Any change in Bedroom count or parking
 - None
- Any height change
 - Slightly by 2'

Public Discussion:

Lee Jones: 5404 Edgewater

- Very Beautiful design, will improve area

Larry Fechs:

- Here to support – will improve neighborhood

Motion to approve: Rear Variance Relief – No Conditions

Motion: Jay Cooke

Second: Mike Weissen

Vote:

Dan Smith: Yea

- Unique design with hardships – Great design plan

Jay Cooke: Yea

- Close to current existing property – no impact on neighbors

Mike Weissen: Yea

- Beautiful changes

Mike Advena: Yea

- No Negative impact

Pete Weiss: Yea

- No neighbors affected

Greg Maiuro: Yea

- Like by neighbors

Motion passes: 6 in favor, 0 opposed

Motion to adjourn: Mike Weissen

Second: Mike Advena

Meeting adjourned at 10:15 PM